IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

FRIDAY, THE 10TH AUGUST 2007 / 19TH SRAVANA 1929

MACA.No. 613 of 2003()

OPMV.1721/2001 of MOTOR ACCIDENT CLAIMS TRIBUNAL, MANJERI

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APPELLANT/CLAIMANT:

P.ANILKUMAR, S/O. SUKUMARAN,
ANIL BHAVAN, THAMARAKUZHI, MALAPPURAM DISTRICT.

BY ADV. SRI.T.K.AJITH KUMAR

RESPONDENTS: RESPONDENTS:

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1. SHAMSUDHEEN, S/O. MARAKKAR,
ANAKKAYI HOUSE, UPHILL, MALAPPURAM.

2. SANTHOSH KUMAR, S/O.BALAKRISHNAN NAIR,
MEEMPATTU HOUSE, MUNDUPARAMBA, MALAPPURAM.

3. UNITED INDIA INSURANCE COMPANY LTD.,
DIVISIONAL OFFICE, COURT ROAD, MANJERI.

R3 BY ADV. SRI.P.SANKARANKUTTY NAIR

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 10/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. PADMANABHAN NAIR ,J

M.A.C.A. No.613 of 2003

Dated, this the 10th day of August, 2007

JUDGMENT

Petitioner in O.P.(MV) No.1721/2001 on the file of the Motor Accidents Claims Tribunal, Manjeri is the appellant. Appeal is filed against an award passed by the Tribunal by which it had awarded a compensation of Rs.5,500/- to the appellant. Appellant met with a road traffic accident on 5.2.2001. He filed Original Petition claiming Rs.50,000/- as compensation. Insurer filed written statement and the case was posted for trial on 27.2.2003. On that day the appellant was absent. The Tribunal passed an award allowing the appellant to recover an amount of Rs.5,500/-. Challenging the quantum of compensation this appeal is filed.

2. Learned counsel appearing for the appellant submits that in fact as per the directions of the Tribunal this case was posted for settlement and thereafter no notice was given to the parties regarding the posting on 27.2.2003 and hence the appellant did not appear before the Tribunal on that day.

3. After hearing both sides and perusing the records I am of the view that compensation was fixed without any basis. Tribunal below did not consider the nature of injuries, duration of treatment, etc. So I have no other option but to set aside the award passed by the Tribunal and remand the case for fresh disposal in accordance with law.

In the result, M.F.Appeal is allowed. Award passed by the Tribunal is hereby set aside and O.P.(MV) No.1721/2001 is remanded to the Tribunal for fresh disposal in accordance with law. Parties shall be given a reasonable opportunity to adduce evidence. Being an old case the Tribunal shall make every endeavour to dispose of the case within a period of four months from the date of appearance of parties. Parties shall appear before the Tribunal on 10.9.2007.

K. PADMANABHAN NAIR
JUDGE

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